

ADEQUATE SCHOOL FACILITIES ORDINANCE  
TEMPLATE  
YORK COUNTY, SOUTH CAROLINA

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE <Insert Name of Jurisdiction>, SOUTH CAROLINA, CREATING <Insert Section of Code> TO ADOPT ADEQUATE SCHOOL FACILITIES REQUIREMENTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**PREAMBLE**

**WHEREAS**, the <Insert Name of Governing Body> (the “Council”) finds that, in the interest of protecting the public health, safety, and general welfare, it is necessary to ensure, as new development occurs in the County/City of <Insert Name of Jurisdiction> (the “County/City”) that adequate Public School Facilities be in place to serve those new residents; and

**WHEREAS**, the <Insert Name of Local School District(s)> (the “School Districts”) is (are) responsible for providing Public School Facilities to County/City residents; and

**WHEREAS**, the County/City, and all other non-exempt local governments with jurisdiction over portions of the applicable school district, have entered into Public Schools Interlocal Agreements with the School District(s), which set forth matters required by State statute related to school adequacy, and which is intended to achieve a uniform, countywide Public School adequacy system; and

**Comment [mj11]:** Adjust to singular or plural throughout as appropriate.

**WHEREAS**, the County/City herein adopts the Level of Service Standards as provided for in the Public Schools Interlocal Agreements; and

**WHEREAS**, the Council has determined that this Ordinance is necessary to mitigate the potential negative impacts on Public School Facilities if new development is allowed to occur at a rate beyond the ability of the School District to provide adequate Public School Facilities for new development; and

**WHEREAS**, the Council hereby adopts and incorporates the purpose, intent and findings set forth in this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the County/City of <Insert Name of Jurisdiction>, South Carolina, as follows:

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## **SECTION 1: Consistency with the Comprehensive Plan.**

The **Council** has reviewed this Ordinance and has determined that it is consistent with the Comprehensive Plan.

## **SECTION 2: Amendment to the County/City Land Development Regulations/ Subdivision Regulations.**

The **County/City Land Development Regulations/Subdivision Regulations** shall be amended to read as follows:

### **2.1 SINGLE FAMILY LOTS**

No single family or duplex lot shall be created until a Finding of Available School Capacity has been made by the School District Designee, and the other requirements of this Ordinance have been met.

### **2.2 MULTI-FAMILY SITE PLANS**

No multi-family site plan shall be approved until a Finding of Available School Capacity has been made by the School District Designee, and the other requirements of this Ordinance have been met.

## **SECTION 3: Amendment to the County/City Code of Ordinances.**

The **County/City** Code of Ordinances shall be amended to add the following:

### **3.1 SHORT TITLE**

This Ordinance shall be known and may be cited as the “Adequate School Facilities Ordinance.”

### **3.2 PURPOSE, INTENT, AND FINDINGS**

(a) The purpose and intent of this Ordinance is:

- (1) To require the availability of adequate Public School Facilities as new residential growth occurs.
- (2) To ensure that public schools needed to support new development will meet Level of Service Standards.
- (3) To ensure that **County/City** and the School District maintain a financially-feasible Work Program to accommodate new residential development, based

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on the School District's ability to provide adequate Public School Facilities to new development.

- (4) To ensure that no Development Proposal is approved that would generate demands that exceed the capacity of public schools at the Level of Service Standards.
  - (5) To ensure that adequate Public School Facilities will be under construction as new development occurs, and in place within three (3) years after the issuance of approval of any Development Proposal as defined herein.
  - (6) To establish uniform procedures for the review of School Adequacy Applications subject to the standards and requirements of this Ordinance.
  - (7) To establish a method whereby the impacts of development on Public School Facilities can be mitigated by the cooperative efforts of the public and private sectors.
  - (8) To encourage development in areas where Public School Facilities are adequate and/or planned in the Work Program.
  - (9) To ensure that all applicable legal standards and criteria are incorporated into these procedures and requirements.
  - (10) To ensure that approval of Development Proposals will not adversely affect the public health, safety, and general welfare of existing and future residents of the County/City.
- (b) In adopting this Ordinance, the County/City hereby finds and determines as follows:
- (1) The availability of Public School Facilities is necessary for the public health, safety, and general welfare.
  - (2) New growth and development within the County/City has an impact on the School Capacity of Public School Facilities, which impact can be mitigated by the timing and sequencing of development as provided herein.
  - (3) The School Districts have prepared and adopted Work Programs to provide the Public School Facilities needed to accommodate projected rates of growth, which Work Program will be reviewed and updated annually to reflect changes in the County/City's growth rate, available financial resources, and other relevant factors so that Level of Service Standards are maintained.

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- (4) The Level of Service Standards for each level or type of school are necessary for the protection of the public health, safety and welfare, and will not unduly inhibit new growth and development within the County/City.
- (5) The impacts on Public School Facilities resulting from new development may be mitigated by measures that either reduce projected impacts on, or increase the School Capacity of Public School Facilities.
- (6) This Ordinance is necessary so that a Development Proposal does not outstrip the School District's ability to plan for and fund necessary Public School Facilities by virtue of its timing, magnitude or location.

### 3.3 DEFINITIONS

The words, terms, and phrases used in this Ordinance shall be defined as follows:

**Available School Capacity** - that portion of total public School Capacity that remains available for the Development Proposal after the following are subtracted: Current Student Enrollment; those student stations reserved by a Finding of Available School Capacity; and those student stations reserved for Exempt Development.

**Adequacy Service Area or ASA** –geographic areas within which adequacy will be determined, which shall be attendance zones as they are modified from time to time.

**Cost per Student Station Estimate** – for each type of Public School Facility, an estimate of the cost of providing Public School Facilities for a public school student, as established in the School District's Work Program. "Cost per Student Station Estimates" shall include all costs of providing instructional and core capacity including land, design, buildings, equipment and furniture, and site improvements. The cost of ancillary facilities that generally support the School District and the capital costs associated with the transportation of students shall not be included in the Cost per Student Station Estimate used for Mitigation.

**Current Student Enrollment** – the number of students enrolled in all Existing Public School Facilities operated by the School District in a given school year as of the most recent     day <select proper enrollment date> enrollment count.

**Development Proposal** – an application for any approval of the following types of residential development, or a phase thereof or amendments thereto:

- (1) preliminary subdivision approval for a single family or duplex lot; or
- (2) site plan approval for any structure including three or more dwelling units.

**Director** – the Director of the County/City <Insert name of responsible department> or the Director's designee.

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**Dwelling Unit** – *<Insert local definition of “dwelling unit”>*.

**Exempt Development** – a development that creates additional impact on Public School Facilities, but which is not required to receive a Finding of Available School Capacity because it

- (1) has received site plan or preliminary subdivision approval prior to the effective date of this Ordinance, and the approval has not expired and remains valid; or
- (2) is subject to a development agreement exempting it from school adequacy tests.

**Finding of Available School Capacity** – a determination by the School District Designee that Public School Adequacy has been achieved, based on the projected impacts of the Development Proposal. A Finding of Available School Capacity may be based upon an executed Mitigation Agreement.

**Finding of No Available School Capacity** - a determination by the School District Designee that Public School Adequacy has not been achieved, based on the projected impacts of the Adequate School Facilities Ordinance, Development Proposal and the failure of the applicant to proffer an acceptable Mitigation Agreement.

**Level of Service (LOS)** – the comparison of public school enrollment to School Capacity in a given Adequacy Service Area.

**Level of Service Standard (LOS Standard)** – the Level of Service applied to an Adequacy Service Area that is established in the Public Schools Interlocal Agreement for each level or type of Public School Facility.

**Mitigation** – an applicant’s voluntary provision of Public School Facilities proportionate to a Development Proposal’s impact on School Capacity. Mitigation options may include contribution of or payment for land acquisition; construction or expansion of, or payment for construction of Public School Facilities; or the creation of mitigation banking based on the construction of Public School Facilities, in exchange for the right to sell capacity credits to other residential development affecting those facilities. Mitigation must be identified in a Work Program, unless the School District has committed itself in a Mitigation Agreement to include the mitigation in the Work Program during the next annual update to the Work Program.

**Mitigation Agreement** – a voluntary, legally-binding commitment to provide Mitigation to ensure Public School Adequacy can be achieved, where School Capacity would not otherwise be adequate to support the demand resulting from approval of a Development Proposal at the time the Development Proposal is being considered. The Applicant, School District and the County/City shall be parties to a Mitigation Agreement.

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**Public School Adequacy** – the necessary Public School Facilities to maintain Level of Service Standards that are in place or are scheduled in the Work Program to be completed within three (3) years of approval of a Development Proposal.

**Public School Facilities** – permanent public school buildings provided by the School District.

**Public School Facilities, Existing** – Public School Facilities that are already constructed and operational at the time that the School District Designee makes a finding regarding School Capacity.

**Public School Facilities, Planned** – Public School Facilities in the School District's Work Program scheduled to be completed within three (3) years after the approval of the Development Proposal.

**Public School Facilities, Total** – Existing Public School Facilities and Planned Public School Facilities.

**Public Schools Interlocal Agreement** – the interlocal agreement between the County/City and the School District, which establishes standards and procedures for a coordinated, uniform Public School Adequacy program throughout *<Insert Name of Jurisdiction>* and which ensures the Level of Service Standards for Public School Facilities are achieved and maintained.

**School Capacity** – the demand that can be accommodated by a Public School Facility at the Level of Service Standard, as determined by the School District.

**School Adequacy Allocation** – a reservation of School Capacity made by the School District after a Finding of Available School Capacity, upon the County/City's approval of a Development Proposal. The reservation shall be indicated on the School Adequacy Schedule.

**School Adequacy Application** – an application for the School District to make a Finding of Available School Capacity and issue a School Adequacy Allocation.

**School Adequacy Schedule** – a schedule maintained by the School District that tracks the availability of School Capacity over time.

**School District** – the *<Insert Name of Jurisdiction>* School District.

**School District Designee** – a person or committee designated to act on behalf of the School District, and to make determinations regarding whether Public School Adequacy has been achieved for School Adequacy Applications submitted to the School District by the Director.

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**Work Program** – a five-year capital improvement plan that is adopted by the School District. The Work Program itemizes Planned Public School Facilities and includes the following:

- (a) all Planned Public School Facilities, including new construction, expansions, and renovations that will create additional capacity, whether provided by the School District or through Mitigation;
- (b) existing and projected enrollment of Public School Facilities;
- (c) the year in which each Planned Public School Facility will be undertaken;
- (d) the capacity created by each Planned Public School Facility; and
- (e) necessary data and analysis supporting the proposed Work Program.

### 3.4 LEVEL OF SERVICE STANDARDS

The Level of Service Standards applicable to Public School Facilities shall be as set forth in the Public Schools Interlocal Agreement and are hereby adopted by reference.

### 3.5 APPLICABILITY

#### (a) Generally.

Except as otherwise specifically provided, the provisions of this Ordinance shall apply only to Development Proposals submitted after the effective date of this Ordinance, as follows:

#### (1) Residential Development.

- (i) Unless exempt or age-restricted, all residential development shall be subject to public school adequacy.
- (ii) Before approval of any Development Proposal, or phase thereof, a valid and unexpired Finding of Available School Capacity, and either (A) a valid and unexpired School Adequacy Allocation or (B) a Mitigation Agreement executed by the Applicant and the School District, must be obtained. A School Adequacy Allocation may only be authorized by the County/City based on a Finding of Available School Capacity that is dated no earlier than one (1) calendar year prior to the date of the School Adequacy Allocation.
- (iii) At the request of a potential applicant for a Development Proposal, a non-binding Finding of Available School Capacity may be made by the School District at any time prior to the filing of an application for a

**Comment [mjl2]:** Discussion item: how should family subdivisions be addressed?

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Development Proposal. However, in no event will any Development Proposal be approved prior to the County/City receiving a Finding of Available School Capacity and a School Adequacy Allocation from the School Board.

- (iv) Notwithstanding the foregoing, neither a Finding of Available School Capacity nor a School Adequacy Allocation is required for any residential development in which occupancy is restricted by deed to persons over the age of eighteen (18) years, for a period of at least thirty (30) years.

### **(2) Nonresidential Development.**

A Finding of Available School Capacity is not required for the nonresidential component of any Development Proposal.

### **(b) Appeals.**

Appeal may be taken from the final decision of the Director regarding the applicability of this Ordinance to a particular application. Appeals must be filed within thirty (30) business days of the decision, as further described herein.

## **3.6 APPLICATION AND REVIEW PROCEDURE.**

### **(a) When required.**

Subject to the requirements of this section, a School Adequacy Application must be submitted in conjunction with any Development Proposal. No Development Proposal will be approved by the County/City unless a Finding of Available School Capacity and the School Adequacy Allocation is first obtained.

### **(b) Requirements for School Adequacy Application.**

(1) Pre-Submittal Meeting with School District Designee. Prior to submission of a School Adequacy Application, the Applicant shall meet with the School District Designee and/or the Director to confirm the scope and applicability of this Ordinance and to identify potential Public School Facility deficiencies that may need to be mitigated. At or following the pre-submittal meeting, the School District Designee shall:

- (i) Provide the current School Adequacy Schedule;
- (ii) Identify Available School Capacity;
- (iii) Provide other relevant and available information regarding demand for Public School Facilities and Available School Capacity;

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- (iv) Summarize the scope of the School Adequacy Application requirements, which shall include, but not necessarily be limited to, the information listed in paragraph (b)(2) of this section; and
  - (v) Determine whether or not Available School Capacity exists and whether the Applicant would like to explore Mitigation options. If so, specify the mitigation options to be considered and, if possible, the proposed amount and type of Mitigation.
- (2) General School Adequacy Application Requirements. The School Adequacy Application shall include:
- (i) Name, address, and phone number of the applicant;
  - (ii) Property location, including parcel identification numbers and vicinity map;
  - (iii) A description of the Development Proposal, including type, intensity and amount of development, adequate to determine the number and type of public school students generated by the Development Proposal;
  - (iv) A phasing schedule for any Development Proposal to be completed in more than one phase;
  - (v) A description of any past or proposed Public School Facility dedicated, constructed, or funded in order to mitigate the public school impacts of the Development Proposal;
  - (vi) [for Fort Mill School District Only] A calculation of any school impact fees that will be assessed prior to occupancy of the Dwelling Units or lots that are part of the Development Proposal;
  - (vii) In the event that there is not Available School Capacity to accommodate the Development Proposal, a proposed Mitigation Agreement, using the form provided by the School District, and a description of the proposed Mitigation option(s) being used; and
  - (viii) Other relevant information required by the School District that is needed to evaluate the School Adequacy Application and to make a finding with regard to Available School Capacity.
- (c) **Completeness review.**
- Within **three (3)** business days after its receipt, the Director will determine whether the School Adequacy Application is complete and complies with the

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submission requirements set forth in this section. If the School Adequacy Application is complete and the submission requirements have been met, the Director will forward the School Adequacy Application to the School District Designee for review and a finding with regard to Available School Capacity. If the School Adequacy Application is not complete, the Director will notify the Applicant of its deficiencies in writing within **five (5)** business days of its receipt. At the time that the School Adequacy Application is determined to be complete, the Director shall send it to the School District for review.

**(d) Finding of Available School Capacity and School Adequacy Allocation.**

- (1)** Within \_\_\_\_\_ business days of the submission to the Director of a complete School Adequacy Application, a revised School Adequacy Application, or a proffered Mitigation Agreement, the School District shall prepare a written report that:
  - (i)** Identifies Available School Capacity in the relevant Adequacy Service Area, pursuant to the terms of this Ordinance and the applicable Public Schools Interlocal Agreement;
  - (ii)** Identifies any previously dedicated, constructed, or funded Public School Facility accepted as Mitigation for the public school impacts of the Development Proposal; and
  - (iii)** Based on information provided by the Applicant and its own data and Work Program, states whether Public School Adequacy can be achieved for each type of Public School Facility sufficient to accommodate the Development Proposal.
- (2)** Finding of Available School Capacity.
  - (i)** Where, based on the standards and methodologies set forth herein, the School District determines that Public School Adequacy has been achieved, the School District shall issue a Finding of Available School Capacity.
  - (ii)** Upon issuance of a Finding of Available School Capacity, the School District Designee shall allocate, for up to one year, the amount of School Capacity to be required by the Development Proposal on the School Adequacy Schedule. This temporary allocation of School Capacity will expire either at the end of one year, or upon the withdrawal, rejection or denial of the Development Proposal. It shall be reduced if, and to the same extent that, the Development Proposal is amended to reduce the impacts on Public School Facilities. The School District Designee shall issue a School Adequacy Allocation if the

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Development Proposal is approved, and record the School Adequacy Allocation on the School Adequacy Schedule.

(iii) If a Finding of Available School Capacity is based on a Public School Facility provided through Mitigation, final approval of the Development Proposal shall not be given by the County/City until the execution of a Mitigation Agreement by the Applicant and the School District, pursuant to section 1.8 of this Ordinance. Upon approval of the Development Proposal, the County/City shall execute the Mitigation Agreement.

(iv) Upon the request of the applicant and for good cause, the School District may grant one (1) one-year extension to the duration of a Finding of Available School Capacity.

**(e) Duration and Effect of a School Adequacy Allocation.**

- (1) A School Adequacy Allocation shall remain valid and shall apply to any preliminary plat approval, certificate of occupancy or building permit requested for as long as the approval of the Development Proposal remains effective.
- (2) A School Adequacy Allocation shall not affect the need for the Applicant to meet all other requirements set forth in the land development and subdivision regulations or any other lawfully adopted ordinance or law of the County/City.

**(f) Finding of No Available School Capacity; Mitigation Agreements.**

- (1) If the School District Designee determines that no Available School Capacity exists to accommodate the Development Proposal and no acceptable Mitigation Agreement has been proffered for the School District's and County/City's execution, pursuant to subsection (3)(iii) below, the School District Designee shall issue a Finding of No Available School Capacity, and no School Adequacy Allocation shall be entered on the School Adequacy Schedule.
- (2) Upon the receipt from the School District Designee of a Finding of No Available School Capacity, the Director must notify the applicant in writing within \_\_\_\_\_ business days of the denial. The notice must state the reasons for the denial and any actions that the applicant may take voluntarily to receive a Finding of Available School Capacity.
- (3) Upon a Finding of No Available School Capacity, an applicant may:

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- (i) submit a Development Proposal for a reduced amount of development for which Available School Capacity exists;
- (ii) submit an amended Development Proposal that includes the following:
  - 1. a proposed phasing schedule setting forth the amount, location, and timing of development associated with each proposed phase;
  - 2. a showing that Available School Capacity will exist for each phase of development; and
  - 3. other additional information or materials identified by the School District Designee as necessary to ensure Public School Adequacy;
- (iii) proffer an executed Mitigation Agreement, pursuant to section 3.8 of this Ordinance, which shall fully mitigate the impact of the Development Proposal on Public School Facilities; or
- (iv) submit a notice of intent to wait until School Capacity may exist for the Development Proposal pursuant to the Work Program, but no longer than five (5) years from the date of submittal of a complete application. If the Applicant chooses to wait for available capacity, the submittal of a Development Proposal having no greater impact on school enrollment than the one initially submitted shall become an Exempt Development for purposes of school adequacy after the end of the five (5) year waiting period.

### **3.7 PROCEDURES FOR FINDING WHETHER THERE IS AVAILABLE SCHOOL CAPACITY**

The School District Designee shall make a finding with regard to Available School Capacity in accordance with the requirements of this Ordinance and the Public Schools Interlocal Agreement, based on the methodology below:

- (a) The School District Designee will measure Available School Capacity for each school level, based on the School Capacity of the Adequacy Service Area in which a Development Proposal is located. If School Capacity is not available in the affected Adequacy Service Area, the School District Designee shall determine whether there is Available School Capacity in any contiguous Adequacy Service Area.
- (b) For each school type (elementary, middle and high), the School District Designee may issue a Finding of Available School Capacity if the following calculation methodology shows that there is Available School Capacity:

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### i. Formula for Total Public School Facilities

**Total Public School Facilities =**  
Existing Public School Facilities +  
Planned Public School Facilities.

### ii. Formula for Available School Capacity

**Available School Capacity =**  
Total Public School Facilities –  
(Current Student Enrollment +  
Student Stations Reserved by a Finding of Available School Capacity +  
Student Stations Reserved for Exempt Development +  
School Capacity required by the Development Proposal).

- (c) If a Finding of Available School Capacity is based upon the capacity of a contiguous Adequacy Service Area, then the School District Designee shall address the means and timeframes within which the impacts of the Development Proposal will be shifted by the School District to the contiguous Adequacy Service Area. Methods to shift impacts may include, but are not necessarily limited to:
- (1) redistricting;
  - (2) transportation plans;
  - (3) operational adjustments; or
  - (4) terms or conditions agreed to by the Applicant.

### **3.8 MITIGATION AGREEMENTS**

(a) **Applicability.**

The provisions of this section shall apply to an applicant that either has received a Finding of No Available School Capacity or wishes to proffer Mitigation.

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### **(b) Mitigation Agreement.**

If it is determined necessary or desirable, the School District and the County/City may convene a meeting with the applicant or each other if desired, to discuss the specific details of the Mitigation Agreement. The agreement shall provide mitigation that is at least proportionate to the demand for Public School Facilities to be created by the additional or new residential units in the Development Proposal, and for which there is no Available School Capacity. However, this mitigation may not be provided unless it is first accepted by the School District. Any mitigation that is provided for in a Mitigation Agreement must satisfy the demand created by the additional or new residential units, and shall be directed by the School District toward a Planned Public School Facility identified in the Work Program. The School District shall agree to amend the Work Program during the next annual update to include the School Capacity improvement being offered as Mitigation. The Mitigation Agreement must be signed by the applicant and School District before a Finding of Available School Capacity is issued. The County/City shall execute the Mitigation Agreement following approval of the Development Proposal.

### **(c) Options for Mitigation.**

If the applicant chooses to enter into a Mitigation Agreement, he or she shall provide one or more of the following Mitigation options:

- (1) the contribution of land;
- (2) the construction, expansion, or payment for land acquisition or construction of a Public School Facility; or
- (3) the creation of mitigation banking based on the construction of a Public School Facility in exchange for the right to sell School Capacity credits.

The applicant and the School District shall consult on the options available for mitigating the Adequacy Service Area affected by the Development Proposal. The agreed upon mitigation shall be described in an exhibit to the Mitigation Agreement.

### **(d) Determination of Amount of Mitigation Required.**

The amount of Mitigation required from an applicant shall be calculated by applying the adopted student generation rate multiplier to the Cost per Student Station Estimate for each school type (elementary, middle and high) for which there is not sufficient School Capacity. The minimum Mitigation obligation for a Development Proposal shall be determined by the following formulas:

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### *(i) Formula for Number of Student Stations to Be Mitigated*

$$\begin{aligned} &\text{Number of New Student Stations Required For Mitigation (By School Type)} = \\ &\quad \text{Available School Capacity for the Development Proposal} - \\ &[\text{Number of Dwelling Units Generated By Development Proposal (By Housing Type)} \times \\ &\quad \text{Student Generation Multiplier (By Housing Type and School Type)}] \end{aligned}$$

### *(ii) Formula for Cost of Mitigation*

$$\begin{aligned} &\text{Cost of Mitigation} = \\ &\quad \text{Number of New Student Stations Required For Mitigation (By School Type)} \times \\ &\quad \text{Cost Per Student Station Estimate (By School Type)}. \end{aligned}$$

The full cost of Mitigation shall be required from the Development Proposal.

#### **(e) Impact Fee Credit. [FMSD only]**

The County/City shall provide a credit for the Mitigation, calculated pursuant to subsection (d) and provided for in the Mitigation Agreement, toward any impact fee or exaction imposed by ordinance of the County/City for the same need.

### **3.9 SCHOOL DISTRICT WORK PROGRAM**

#### **(a) Purpose.**

The purpose of the School District's Work Program is to ensure the provision of adequate Public School Facilities as new residential development occurs in the County/City.

#### **(b) Annual Updates and Monitoring Reports.**

Pursuant to the Public Schools Interlocal Agreement, the County/City will review and comment in the development of the School District's Work Program and will provide input with respect growth projections. Considering the input of the County/City, the School District shall amend the Work Program annually by October 1 to include the immediately subsequent fifth year of Public School

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Facilities. Each annual update shall address the status of Public School Facilities, including, but not limited to the following:

- (1) The Available School Capacity by Adequacy Service Area;
- (2) Anticipated increases in residential development within the School District;
- (3) The existing and projected Level of Service for each Adequacy Service Area by year for the 5 year planning period;
- (4) For each Adequacy Service Area and each year of the 5-year planning period, the funding needed school facilities to achieve and maintain the Level of Service Standard;
- (5) The current need for any Public School Facilities resulting from changes in population trends, employment growth, or other relevant factors;
- (6) The rate and location of development of Exempt Development;
- (7) Any amendments necessary to effectuate the purpose and intent of this Ordinance and state law, including any demand assumptions, need factors, and other matters recommended by the School District for reconsideration or revision; and
- (8) The projected financing for any additional School Capacity resulting from the factors set forth in subsections (1) through (5), above.

### **3.10 APPEALS**

An Applicant may appeal a determination by the School District Designee to the School District or any final decision by the Director, made pursuant to the terms of this Ordinance, to the *<Insert Name of Appropriate County/City Council>*. Appeals must be filed with the *<Insert Name of Appropriate Agency or Official>* within thirty (30) business days of the determination or decision being appealed. Appeals shall be heard by the *<Insert Name of Appropriate School Board>* or the *<Insert Name of Appropriate County/City Council>*, as appropriate, at an evidentiary hearing at which the reasons for the decision and the evidence relied upon shall be presented. The Applicant also shall have the opportunity to present the reason for appeal and evidence in support of the appeal. The *<Insert Name of Appropriate School Board>* or *<Insert Name of Appropriate County/City Council>*, as appropriate may: (a) affirm the decision of the School District Designee or Director; (b) remand the matter to the School District Designee or Director for further proceedings; or (c) reverse the decision of the School District Designee or Director. Decisions of the *<Insert Name of Appropriate School Board>* or *<Insert Name of Appropriate County/City Board/Council>* may be challenged in a court of competent jurisdiction in accordance with applicable law.

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**SECTION 4: Conflict.**

To the extent of any conflict between other County/City ordinances and this Ordinance, this Ordinance shall be deemed to be controlling; provided, however, that this Ordinance is not intended to amend or repeal any existing County/City ordinance, resolution, or regulation.

**SECTION 5. Severability.**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decisions of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

**SECTION 6. Effective Date.**

This Ordinance shall become effective upon the date of adoption.

PASSED on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PASSED AND ADOPTED on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

COUNTY/CITY of \_\_\_\_\_, SOUTH CAROLINA

\_\_\_\_\_  
<Insert Name of Governing Body Chairperson>  
Chairperson

ATTEST:

\_\_\_\_\_  
<Insert Name of Clerk>  
County/City Clerk

\_\_\_\_\_  
Signature Date

Approved as to form and correctness:

\_\_\_\_\_  
<Insert Name of Local Attorney>  
County/City Attorney

\_\_\_\_\_  
Signature Date